tempt to substitute a prior statement of a witness for present testimony. The preparation of any such memorandum is nothing more or less than a person talking to himself. Accordingly defendants object to each and every of the following numbered exhibits, severally and separately, on the ground and for the reason that each such exhibit is hearsay.

57, 62, 1340, 1395, 1396, 1397, 1452 to 1456, 1471, 1488 to 1544, 1545 to 1556, 1767, 1778, 1899 (p. 883), 1900
10821 (p. 885)

6. *Memoranda of Officers or Agents of Industrial Hospital Association.*

Each of the following exhibits is a memorandum by some officer or agent of Industrial Hospital Association. Objection is made to each of said exhibits on the ground that it is hearsay.

580, 581, 582

7. *Interoffice Correspondence of National Hospital Association.*

Each exhibit falling in this category is a communication by one officer or agent of National Hospital Association to another officer or agent of the same association. All objections made to memoranda in the preceding two categories apply here. Defendants therefore object to each and every of the following numbered exhibits, severally and separately, on the ground and for the reason that each such exhibit is hearsay.

58, 60, 61, 1338, 1367, 1383, 1384, 1406, 1409, 1458, 1472, 1476, 1785, 1879

10822 8. *Transcripts of Proceedings Before Board of Censors of Multnomah County Medical Society, and Correspondence from and to Said Board.*

The documents included in this category have sometimes been referred to as "disciplinary proceedings". They involve proceedings by and before the Board of Censors of Multnomah County Medical Society, some before the Council of said society, in which an attempt was made to induce members of said society to refrain from unethical practices, expulsions from membership of said society

by reason of said practices, and resignations from said society.

Objection is made to all said exhibits on five grounds:

First. Said proceedings were not coercive proceedings, were not attempts to restrain trade or commerce or to monopolize prepaid medical care plans, but were merely attempts by Multnomah County Medical Society to enforce reasonable standards of ethics among its members.

Second. Said proceedings had no permanent, nor at most more than a temporary, effect in hindering the operations of commercial hospital associations.

Third. It affirmatively appears that the last of said proceedings was in the year 1940 and that there were no such proceedings thereafter.

Fourth. There is no showing that any of the doctors whose names appear in any of said exhibits was refraining from taking tickets of or otherwise cooperating with hospital associations at the time of the filing of the complaint herein, or if any of said doctors was so refraining that the reason therefore was in any way related to any of the matters contained in said exhibits.

Fifth. Each of the defendants herein, other than said Multnomah County Medical Society, makes the further objection that none of the matters or conduct set forth in any of said exhibits is in any way binding upon
10823 any of the remaining defendants, or proves or tends to prove any action or conduct on behalf of any of said remaining defendants.

The exhibits to which the above objections are directed are the following:

63, 64, 744, 875, 876, 877, 878, 879, 881, 882, 883, 884, 1057, 1058 to 1081, 1099, 1423, 1754, 1760 to 1766, 1870 (p. 301), 1088 to 1090 (pp. 640-2), 1901 to 1934 (pp. 919-20), 1945 (p. 1087) 732, 881, 1780

9. *Articles and Statements in Publication Northwest Medicine.*

There is no evidence in the record that any of the statements or articles, contained in the following numbered exhibits, was published by or with the consent of any medical society or of defendant Oregon Physicians Service,

or that any of said articles or statements thus published was other than the personal opinion of one of the contributing editors of said publication. While several of said articles were contributed by defendant Gordon Leitch, there is nothing in the record to indicate that such article was contributed as a part of any plan or conspiracy.

The defendants therefore object to each and every said exhibit, severally and separately, on the ground and for the reason that each of said exhibits is hearsay, and further does not tend to prove any of the issues of this
10824 case.

In the event said objection is overruled, an objection is made on the same grounds on behalf of all defendants other than defendant Leitch. Said exhibits are as follows:

208, 276 to 290, 294, 299, 300, 303, 307, 312, 315, 322, 323, 325, 335, 337, 339 to 341, 344, 359, 364, 432, 433, 498, 679, 688, 691, 692, 696, 697, 698, 701, 708, 714 to 718, 720, 722, 723, 807, 895, 898 to 901, 1089, 1096, 1097, 1800 to 1802.

10. *Articles in Medical Reporter.*

This little pamphlet started on April 1, 1935, continued until December, 1937. The first issue was by the committee on publicity of the Oregon State Medical Society and Multnomah County Medical Society. Thereafter it was issued by the committee on publicity of Oregon State Medical Society. Defendants object to these exhibits on the ground that they are incompetent, irrelevant and immaterial and particularly on the ground that they are too remote. The last issue was December, 1937.

The exhibits against which these objections are made are as follows:

258 to 275

11. *Interstate Commerce.*

The utmost that the various exhibits relating to so-called interstate commerce tend to prove is: A small percentage of the business of both commercial and doctor-sponsored prepaid medical plans includes residents in other states; residents in Oregon needing medical care while away from the State of Oregon are entitled to be reimbursed for medical expenses there incurred;
10825 residents of other states sometimes come to Oregon for medical care; drugs and appliances

are shipped into Oregon from other states and here used by hospital associations, some for sale through drug departments and some for use in first aid work; and industries whose employees are covered by medical care plans in Oregon shipped their products to other states. Neither any of the exhibits nor any oral testimony has any remote tendency to prove that any act of defendants has restrained trade or commerce among the several states, within the meaning of the Sherman Act.

Defendants therefore object to each and all of the exhibits relating to "interstate commerce", severally and separately, on the ground and for the reason that none of these exhibits proves or tends to prove any restraint of trade or commerce among the several states by any defendant. These exhibits are as follows:

224 to 255, 256, 257, 1101 to 1105, 1106, 1125 to 1140, 1443, 1444, 1445, 1617 to 1635, 1669 to 1673, 1679 to 1712, 1714 to 1721, 1723 to 1734, 1736 to 1739, 1742 to 1745, 1775 to 1777, 1882 to 1886 (p. 612)

12. *Minutes of Defendant Medical Societies.*

The portions of the minutes of defendant medical societies offered in evidence include every reference therein to prepaid medical care, contract practice, American Medical Association, speeches and remarks by members and third persons on any of these subjects, resolutions,
10826 reports of committees (whether adopted or not) and many miscellaneous subjects.

Defendants object to each and all of these minutes, severally and separately, and to each portion thereof, on the ground and for the reason that the same do not tend to prove any of the issues of this case. Defendants wish it understood that a separate objection is made to each portion of said minutes not involving official action by a medical society. In the case of the minutes of any particular defendant medical society, all other defendants make the further objection that the matters therein are not in any way binding upon them.

For the convenience of the Court, and for reasons hereinbefore stated in connection with other exhibits, defendants segregate the minutes of each society between (1) those taking place prior to December 31, 1941, and (2) those taking place subsequent to December 31, 1941.

The exhibits against which these objections are made are as follows:

(A) Minutes of Council of Oregon State Medical Society

(1) Minutes prior to December 31, 1941.
291 to 293, 295 to 298, 301, 302, 305, 306, 308 to 311, 313, 314, 316 to 321, 324, 326 to 334, 336, 338, 342, 343, 345, 676, 677, 680 to 682, 702, 703, 761

(2) Minutes after December 31, 1941.
346 to 358, 360 to 363, 365 to 378, 381 to 387, 683, 685, 686, 689, 690, 693 to 696, 700.

10827 (B) Minutes of Multnomah County Medical Society

(1) Minutes before December 31, 1941.
724 to 731, 733 to 743, 745, 746, 748 to 751, 753, 755, 756, 759, 760, 762 to 769, 880

(2) Minutes after December 31, 1941.
747, 770 to 797, 813, 1115, 1116

(C) Minutes of Clackamas County Medical Society

(1) Minutes before December 31, 1941
903 to 905

(2) Minutes after December 31, 1941.
906

(D) Minutes of Clatsop County Medical Society

(1) Minutes before December 31, 1941.
908, 909, 915, 916, 918, 919, 920, 921, 922, 923, 924, 926, 927

(2) Minutes after December 31, 1941.
928, 929, 931, 932, 934, 936 to 939

(E) Minutes of Columbia County Medical Society

(1) Minutes before December 31, 1941.
940

10828 (2) Minutes after December 31, 1941
941, 942, 943, 944, 945

(F) Minutes of Jackson County Medical Society

(1) Minutes before December 31, 1941.
947 to 950, 952 to 972, 974, 1255

(2) Minutes after December 31, 1941.
973, 975 to 987

(G) Minutes of Lane County Medical Society

(1) Minutes before December 31, 1941.
1002 to 1019

(2) Minutes after December 31, 1941.
1020, 1022 to 1032

(H) Minutes of Marion-Polk (formerly Polk-Yamhill-Marion) County Medical Society

(1) Minutes before December 31, 1941.
1037 to 1040

(2) Minutes after December 31, 1941.
1041 to 1044

10829 13. *Minutes of Medical Societies Who Are Not Defendants.*

Defendants incorporate herein all the objections in the next preceding category, involving minutes of meetings of defendant medical societies. In addition, defendants object to the following numbered exhibits involving minutes of meetings of medical societies not defendants in this case on the ground and for the reason that said minutes are hearsay and not in any way binding upon any of the defendants herein.

Said exhibits are as follows:

Minutes of Coos and Curry County Medical Society
Exhibit 687

Minutes of Yamhill County Medical Society
Exhibit 1941

Minutes of Central Willamette Medical Society
Exhibits 1207 to 1222

14. *Bulletins, Statements, Etc., of Multnomah County Medical Society.*

All the defendants, other than Multnomah County Medical Society, object to each of the following bulletins, statements and other literature of Multnomah County Medical

Society on the ground and for the reason that as to them each of said exhibits is hearsay. These exhibits are numbered as follows:

705 to 707, 800, 802 to 806, 1345.

10830 15. *Miscellaneous.*

The following exhibits for purposes of objections will be stated separately. Defendants object to each and every one of said documents, severally and separately, on the ground and for the reason that each of said documents is incompetent, irrelevant and immaterial and does not tend to prove any issues of this case. In addition thereto, defendants make the following specific objections to each of the following numbered exhibits:

22— This document consists of alleged charges against Dr. Sweeney of Medford, addressed to Jackson County Medical Society. It is nothing more than the statement of two doctors to the effect that Dr. Sweeney was guilty of unethical practice. Defendants object to it on the ground that it is hearsay and not binding upon them.

24— Letter from Dr. Sweeney to Bechtold, dated February 15, 1940, explaining the charges contained in exhibit 22 and his attitude toward them. Defendants object to this exhibit on the ground that it is hearsay and not binding upon them.

36— This is a letter from Mayo Clinic of Rochester, Minn., to National Hospital Association. Defendants object to it on the ground that it is hearsay.

55— This document is in the form of an affidavit, but not sworn to. It sets forth an alleged conversation between the affiant and a doctor's office girl. Testimony of the affiant consisting of the substance of this statement was stricken by the Court as hearsay (Tr. 793). Defendants object to this document on the ground that it is
10831 hearsay.

73— This is a form of a contract in use in the State of Washington. It refers to Remington's Revised Statutes 7679-1. Defendants object to it on the ground that it is incompetent, irrelevant and immaterial.

206— This is a letter from Dr. Dammasch of Multnomah Industrial Health Association dated November 24, 1933,

to Columbia County Medical Society "setting forth a plan whereby the membership of your group can join us in our efforts to eliminate the lay-owned hospital associations from the practice of medicine". Defendants object to this letter on the ground that it is hearsay, that Dr. Dammasch did not represent and was not authorized to represent or speak for any defendant, and that his acts are not binding upon any defendant. Objection is made on the further ground the document is too remote.

410— This is a letter or memorandum on the letterhead of Drs. Hellworth and Kauffman of Toledo, Oregon, addressed to no one, relating certain activities of alleged representatives of OPS in Lincoln County. Defendants object to it on the ground it is hearsay.

605, 606 and 607— These are letters dated, respectively, December 22, 1941, December 17, 1941, and December 13, 1941, from Dr. Fred S. Richards of Forest Grove, respectively to Oregon-American Lumber Corporation, Industrial Hospital Association, and Washington County Medical Society. He sets forth his views of the alleged conduct of the doctors of Washington County. No answer appears to any of these letters. Dr. Richards was an osteopath. Defendants object to each of these letters on the ground that it is hearsay.

10832 754— Letter dated August 22, 1939, by Dr. Roy A. Payne to Council of Multnomah County Medical Society. Defendants object to it as hearsay.

798— Newspaper articles regarding resignation of doctor from medical society and concerning his death. Defendants object to this exhibit as hearsay.

799— Letter dated December 5, 1939, by Dr. Roy A. Payne to Multnomah County Medical Society, objected to as hearsay.

884— Letter January 5, 1939, from Dr. Moore to Dr. Pilkington of Astoria. Defendants object to this letter as hearsay.

889— Letter dated May 9, 1940, ~~from~~ Dr. Charles E. Hunt to Dr. Robert J. Pilkington. Defendants object to it as hearsay.

1120— Oregon Voter of December 5, 1936. Defendants object to this exhibit on the ground it is hearsay.

1124— Letter dated July 26, 1944, by Drs. Mackey & Woerner to Director, Lumbermens Hospital Association, Bend. Defendants object to this exhibit on the ground it is hearsay.

1223— Letter dated December 24, 1946, from American Medical Association to secretaries of county medical societies. Defendants object to this exhibit on the ground that it is hearsay.

1226— Journal of A. M. A., August 31, 1940, page 726, et seq. Defendants object to this exhibit on the ground it is hearsay.

1332-1334-1339— Letters dated February 2, 1942, and February 3, 1942, by Sacred Heart Hospital, Eu-
10833 gene, to employers stating that it would not "accept patients under the National Hospital Association". Defendants object to these exhibits on the ground that they are hearsay and not binding upon any defendant.

1347, 1380— Letters from State Industrial Accident Commission to National Hospital Association, dated November 26, 1938, and December 6, 1938. Defendants object to these exhibits on the ground they are hearsay.

1404— Copy of resolution of Columbia River District Council No. 5 disapproving and condemning program of Oregon State Medical Society. Defendants object to this exhibit on the ground that it is hearsay.

1419— Letter dated December 3, 1936, from Eugene Lumber Co. to Dr. Sears, Chairman, Board of Censors of Multnomah County Medical Society. Defendants object to this exhibit on the ground that it is hearsay.

1567— Minutes of Board of Trustees of Good Samaritan Hospital, December 31, 1941. Defendants object to this exhibit on the ground that it is in no way binding upon any defendant and is hearsay.

1568— Undated and unsigned memorandum, "Cooperative Arrangement between Multnomah Medical Service Bureau and Northwest Hospital Service Plan". Defendants object to this exhibit on the ground that it has not been identified and is hearsay.

1577— "(Preliminary) Standards of Acceptance for Medical Care Plans, Approved by the Council of Medical

Service and Public Relations, AMA". Defendants
10834 object to this exhibit on the ground that it is in no way binding upon any of them and is hearsay.

1581— Letter dated May 1, 1945, R. W. Nelson, Chairman, Council of Hospitals, to membership of Portland Council of Hospitals, enclosing a resolution of Roseburg Council C. I. O. Defendants object to this exhibit on the ground it is hearsay and in no way binding upon them. In this connection, defendants point out that the Government called the writer of this letter as a witness and did not question him about it.

1657-68— Extracts from minute book of Industrial Hospital Association. Defendants object to each of these exhibits, separately and severally, on the ground that nothing contained in these minutes is in any way binding upon defendants and that as to them everything in these minutes is hearsay.

1674— Reprint from Vol. 139, Journal of American Medical Association, "Four Recent Articles on Medical Economics". Defendants object to this exhibit on the ground that it is hearsay.

1677— Letter dated December 22, 1945, William A. Shea, M. D., to Drs. T. M. Joyce and John Fitzgibbons together with memorandum in handwriting signed "Fitz". Defendants object to this exhibit on the ground that it is incompetent, irrelevant and immaterial and hearsay.

1740-41— Defendants object to these newspaper articles on the ground they are hearsay. There is no evidence that the information disclosed therein was given by anyone with authority from any defendant.

10835 1750— Letter dated December 15, 1939, from Dr. C. C. Moore to Drs. Pilkington and Van Dusen, Astoria. Defendants object to this letter on the ground it is hearsay.

1752— This exhibit is a copy of exhibits 22 and 24. The same statements and objections there made apply to these copies.

1779— This is an undated notice by "hospital committee" relating to "medical service instructions" to employees of St. Helens Pulp and Paper Company. Defendants ob-

ject to this exhibit on the ground that it is hearsay and not binding upon them.

1804— Mimeographed copy of proceedings, Sixth Annual Convention, Oregon State Industrial Union Council C. I. O., January 7, 8 and 9, 1944. Defendants object to this exhibit on the ground that it is hearsay.

References in parenthesis after the following numbered exhibits are to pages of the transcript.

1893 (pp. 734-6)— Letter from Eugene Hospital and Clinic to Dr. A. Gurney Kimberley, dated September 6, 1949. Nothing in this letter has any bearing upon any issues of this case. Defendants object to it upon this ground and also upon the ground that it is hearsay.

1894 (pp. 825-6)— Letter from Grievance Committee, Multnomah County Medical Society, to Dr. Jerome L. Holzman. Defendant objects to this letter on the ground it is hearsay.

10836 1895 to 1897 (pp. 842-4)— Constitution of Fraternal Order of Eagles and Minutes of its meetings. Defendants object to each of these exhibits on the ground that it is not in any way binding upon any defendant and is hearsay.

1898 (p. 877)— Statement of medical bills paid by N.H.A. for Wilton E. Minkley. Objected to as incompetent, irrelevant and immaterial.

1938 (p. 929)— Circular distributed by West Willamette Group Health, Inc., setting forth the purposes and aims of that organization. Defendants object to this exhibit on the ground that it has no bearing upon any of the issues of this case and is hearsay.

1939 (p. 920)— Letter from Dr. Huckleberry to Mr. Paul Youngman dated January 31, 1948. This contains an outline of a proposal by Dr. Huckleberry for the sale of his hospital and other properties. Defendants object to it on the ground that it is incompetent, irrelevant and immaterial and hearsay.

1940 (p. 937)— Portion of a page from the News Reporter of McMinnville, Thursday, April 8, 1948, including an advertisement "prepaid medical, surgical and hospital insurance". Defendants object to this exhibit on the ground

that it has no bearing upon any of the issues of this case, was not inserted by them or by their authority, and is hearsay.

1942 (p. 1029)— This document consists of several sheets, apparently taken from the files of American Medical Association and said by Government counsel to consist of "a partial list of the membership of the Oregon State Medical Society". Defendants object to this exhibit on
10837 the ground that it is confusing and ambiguous, it was not made with authority of any defendant, and as to defendants is hearsay.

Respectfully submitted,

GRIFFITH, PECK, PHILLIPS & COUGHLIN

By (Signed) JOHN J. COUGHLIN

CAKE, JAUREGUY & TOOZE

By (Signed) NICHOLAS JAUREGUY
Attorneys for Defendants

10838 Due and legal service of the within Objections to Certain of Plaintiff's Exhibits Nos. 1 to 1946, by receipt of a duly certified copy thereof, as required by law is hereby accepted in Multnomah County, Oregon, on this 9th day of November, 1949.

(Signed) PHILIP MARCUS
Of Attorneys for Plaintiff

10839 IN THE
DISTRICT COURT
OF THE UNITED STATES

[FILE ENDORSEMENT OMITTED]

[TITLE OMITTED]

Objections to Plaintiff's Exhibits Nos. 2032 to 2227

Filed Aug. 3, 1950

Introductory Statement

To avoid duplication we refer to the introductory statement made in connection with our objections to plaintiff's exhibits 1 to 1946 and by this reference incorporate herein the same observations and objections.

Objections to All Documents

Defendants object to the admissibility of all said documents on the grounds (1) that none of said documents is properly rebuttable testimony, and (2) each of said documents is incompetent, irrelevant and immaterial, does not tend to prove any allegations of plaintiff's complaint, and (3) said documents are hearsay. In the case of each of said documents which is offered for impeachment purposes, the further objection is made that a proper foundation has not been laid for the use of any such document for this purpose, that in each instance said document was not written by the witness whose testimony it is offered to impeach and in most instances said document was not shown to the witness intended to be impeached when the witness was upon the stand and an opportunity given such witness to testify concerning or to explain such
10840 document.

In making objections hereinafter to specific documents on other grounds defendants do not waive the above objections or the grounds thereof.

1. *Objections to letters or other communications from doctors to hospital associations, employers, patients and others.*

Objections to these documents are on the same ground as objections to similar letters and communications among plaintiff's exhibits 1 to 1946. See our objections to those documents, pages 3-4. We make the same objection

here to each of said exhibits, severally and separately, that each such exhibit is hearsay and not binding on defendants or any of them. The exhibits to which the present objections apply are as follows:

2069, 2125, 2130, 2149-50, 2157, 2219, 2225

2. *Correspondence between doctors and officers of medical societies.*

Objection is made to each of the following documents on the ground that in each instance the document is hearsay and in no way binding upon any of the defendants herein. The documents to which this objection applies are as follows:

2033 to 2041, 2043, 2062, 2137

3. *Letters from commercial hospital associations to doctors.*

The objection to each of the following documents is made on the ground that each of said documents is hearsay. It consists of a letter from said hospital association or some agent of a hospital association to one or more doctors. The exhibits to which this objection applies are as follows:

2045, 2046, 2047, 2060, 2061, 2138, 2158

4. *Articles and statements in publication "Northwest Medicine".*

Objection is made to each of these articles and
10841 statements on the ground that the same is hearsay.
There is no evidence that any of the statements or articles, contained in the following numbered exhibits, was published by or with the consent of any medical society or of defendant Oregon Physicians Service, or any individual defendant, or that any of said articles or statements thus published was other than the personal opinion of one of the contributing editors of said publication. Said exhibits are as follows:

2083-94, 2096-2103, 2154, 2192, 2220-1

5. *Minutes of meetings of defendant medical societies.*

Defendants object to each and all of the following numbered exhibits, being minutes of meetings of defendant

medical societies or of a committee or council thereof on the ground and for the reason that in each instance the same does not tend to prove any of the issues of this case. A separate objection is made to each portion of said minutes not involving official action by a medical society. In the case of the minutes of any particular defendant medical society all other defendants make the further objection that the matters therein are not in any way binding upon them. Said exhibits are as follows:

2064, 2143-5, 2159, 2171, 2174, 2193-4

6. *Minutes of medical societies who are not defendants.*

Defendants object to each of the following numbered exhibits, being minutes of medical societies not defendants in this case, on the ground that said minutes are hearsay and not in any way binding upon any of the defendants herein. Said exhibits are as follows:

2078, 2218

7. *Bulletin of Multnomah County Medical Society.*

All the defendants other than Multnomah County
10842 Medical Society object to each of the following exhibits, being a publication known as the "Bulletin" of said society, on the ground and for the reason that as to them each of said exhibits is hearsay. These exhibits are numbered as follows:

2054, 2169, 2179, 2186-91

8. *Miscellaneous letters, memoranda, minutes, etc.*

The following are letters and memoranda written from various sources not otherwise identified above and in each instance defendants object to said document on the ground that the same is incompetent, irrelevant and immaterial and does not tend to prove or disprove any issues in the case, and on the further ground that said document as to each defendant is hearsay evidence.

Said documents are numbered as follows:

2044, 2051, 2053, 2055-8, 2062-A, 2065-8, 2070, 2071, 2073-77, 2079-80, 2082, 2095, 2104-9, 2113-24, 2128, 2142, 2146, 2151-3, 2172-3, 2175-8, 2180-4, 2195-6, 2197-8, 2199, 2222-3, 2224, 2226, 2227.

9. *Miscellaneous.*

Defendants object to each and all of the following miscellaneous documents on the ground and for the reason that in each instance said exhibit is hearsay as to each defendant and on the further ground that each of said documents is otherwise incompetent, irrelevant and immaterial and does not tend to prove or disprove any of the issues of this case. Said documents are numbered as follows:

2042, 2052, 2072, 2081

Respectfully submitted,

CAKE, JAUREGUY & TOOZE

By (Signed) NICHOLAS JAUREGUY
Of Attorneys for Defendants

10843 Due and legal service of the within objection to Plaintiff's Exhibits 2032 to 2227 by receipt of a duly certified copy thereof, as required by law is hereby accepted in Multnomah County, Oregon, on this 3rd day of August, 1950.

(Signed) HENRY L. HESS
Henry L, Hess, United States Attorney
Of Attorneys for Plaintiff

10844

IN THE
UNITED STATES
DISTRICT COURT FOR THE
DISTRICT OF OREGON

[FILE ENDORSEMENT OMITTED]

[TITLE OMITTED]

Objections to Plaintiff's Exhibit Nos. 1947 to 2030

Filed Nov. 9, 1950

Objection to all Documents

Defendants object to each and all exhibits numbered 1947 to 2030, inclusive, severally and separately, on the ground and for the reason that each of said documents is incompetent, irrelevant and immaterial, that it does not

prove, nor have any tendency to prove, any of the allegations of plaintiff's complaint, specifically that it does not prove or have any tendency to prove any conspiracy among the defendants or any of them, alleged in the complaint, any unlawful agreement among defendants or any of them, or any coercion, compulsion, harassment, threats or pressure against nny doctor, hospital, hospital association or other person, group or persons or corporation.

In addition, defendants also make the following additional specific objections to the following exhibits:

1947 to 1974,
1976 to 1948,
2026 to 2030

The above numbered exhibits consist of transcripts of proceedings before the Board of Censors of Mult-
10845 nomah County Medical Society, and correspondence from and to said Board. Defendants make the same objections to the above numbered exhibits as they have made to similar exhibits as set forth in defendants' objections to plaintiff's exhibits nos. 1 to 1946, pages 11-12, that is to say:

First. Said proceedings were not coercive proceedings, were not attempts to restrain trade or commerce or to monopolize prepaid medical care plans, but were merely attempts by Multnomah County Medical Society to enforce reasonable standards of ethics among its members.

Second. Said proceedings had no permanent, nor at most more than a temporary, effect in hindering the operations of commercial hospital associations.

Third. It affirmatively appears that the last of said proceedings was in the year 1940 and that there were no such proceedings thereafter.

Fourth. There is no showing that any of the doctors whose names appear in any of said exhibits was refraining from taking tickets of or otherwise cooperating with hospital associations at the time of the filing of the complaint herein, or if any of said doctors was so refraining that the reason therefor was in any way related to any of the matters contained in said exhibits.

Fifth. Each of the defendants herein, other than said Multnomah County Medical Society, makes the further objection that none of the matters or conduct set forth in

any of said exhibits is in any way binding upon any of the remaining defendants, or proves or tends to prove any action or conduct on behalf of any of said remaining defendants.

Respectfully submitted,

GRIFFITH, PECK, PHILLIPS & COUGHLIN

By (Signed) JOHN J. COUGHLIN

CAKE, JAUREGUY & TOOZE

By (Signed) NICHOLAS JAUREGUY
Attorneys for Defendants

10846 Due and legal service of the within Objections to Plaintiff's Exhibits Nos. 1947 to 2030, by receipt of a duly certified copy thereof, as required by law is hereby accepted in Multnomah County, Oregon, on this 9th day of November, 1949.

(Signed) PHILIP MARCUS
of Attorneys for Plaintiff

10847 IN THE
DISTRICT COURT
OF THE UNITED STATES

[FILE ENDORSEMENT OMITTED]

[TITLE OMITTED]

Defendants' Offer of Exhibits in Evidence and Purpose Thereof

Filed Feb. 8, 1950

The defendants offer in evidence the following numbered exhibits, some of which have already been admitted provisionally. Unless otherwise stated the entire exhibit is offered in evidence.

When letters are offered in evidence, it is understood that, in addition to the purposes specifically stated, they are offered (1) to show the state of mind of the writer or person on whose behalf the letter was written; (2) the fact that it was written by the person whose signature or initials appear or on whose behalf it was written; and (3)

that it was sent to the addressee and the addressee received it.

Heretofore we have objected to many exhibits offered by plaintiff, particularly letters and memoranda on the ground that they are hearsay. In offering letters and memoranda ourselves, we do not waive those objections, but expressly reserve them. If the court eventually holds that the letters and memoranda offered by plaintiff and admitted subject to defendants' objections are inadmissible on the ground of hearsay, then the memoranda offered by us, and the letters offered by us may be deemed withdrawn, except those letters offered by defendants which were sent by hospital associations to doctors of the State of
10848 Oregon, which we deem not barred by the hearsay rule.

The exhibits offered by us are as follows, identified only by number:

527 For the information contained therein, and particularly that Industrial Hospital Association was not being injured by actions of doctors.

564 For the information contained therein.

591 For the information contained therein.

1187 For the information contained therein.

1854 For the information contained therein, and to prove that the doctors of Jackson County were friendly to Industrial Hospital Association and cooperating with it.

1872 to 1876, inclusive. In connection with testimony that some doctors have refused to render services to commercial hospital associations, or to send statements for services to them, or to accept payment from them, to show reasons for such refusal; and also for the purpose of proving practices of commercial hospital associations against the public interest and against the interest of patients and doctors.

1935 to 1937, inclusive. Same.

2501 to 2605, inclusive. Same.

10849 *2606* To show friendliness of Dr. McLean toward National Hospital Association and the desire to be fair with it.

2607 to 2681, inclusive. In connection with testimony that some doctors have refused to render services to com-

mercial hospital associations, or to send statements for services to them, or to accept payment from them, to show reasons for such refusal; and also for the purpose of proving practices of commercial hospital associations against the public interest and against the interest of patients and doctors.

2682 Showing that Multnomah County Medical Society was not acting under the direction or with cooperation of Oregon State Medical Society.

2683 To show (1) date on which National Hospital Association adopted open panel system, March 18, 1940; (2) that National Hospital Association indicated willingness that doctors do not accept its tickets or schedule of fees.

2684 to 2695, inclusive. In connection with testimony that some doctors have refused to render services to commercial hospital associations, or to send statements for services to them, or to accept payment from them, to show reasons for such refusal; and also for the purpose of proving practices of commercial hospital associations against the public interest and against the interest of patients and doctors.

2696 to 2700, inclusive. To show friendly and cooperative relations between doctors of Clatsop County
10850 and commercial hospital associations at all times prior to March, 1944.

2701 to 2702 To show that subsequent to October, 1940, doctors of Jackson County were desirous of accepting tickets of commercial hospital associations.

2703 to 2705, inclusive. In connection with testimony that some doctors have refused to render services to commercial hospital associations, or to send statements for services to them, or to accept payment from them, to show reasons for such refusal; and also for the purpose of proving practices of commercial hospital associations against the public interest and against the interest of patients and doctors.

2706 To show growth of business of commercial hospital associations from January 1, 1936, to December 31, 1948.

2707 In connection with testimony that some doctors have refused to render services to commercial hospital associations, or to send statements for services to them, or to accept payment from them, to show reasons for such refusal; and also for the purpose of proving practices of commercial hospital associations against the public interest and against the interest of patients and doctors.

2708 To show difficulties encountered by doctors when they billed commercial hospital associations directly.

2709 Corroboration of testimony that Dr. Klingler was not rejected for membership in medical society because of any connection with commercial hospital asso-
10851 ciations.

2710 to 2719, inclusive. In connection with testimony that some doctors have refused to render services to commercial hospital associations, or to send statements for services to them, or to accept payment from them, to show reasons for such refusal; and also for the purpose of proving practices of commercial hospital associations against the public interest and against the interest of patients and doctors.

2720 In connection with testimony that some doctors have refused to render services to commercial hospital associations, or to send statements for services to them, or to accept payment from them, to show reasons for such refusal; and also for the purpose of proving practices of commercial hospital associations against the public interest and against the interest of patients and doctors; and showing that hospital associations encouraged doctors not to send bills to hospital associations.

2721 and 2722 In connection with testimony that some doctors have refused to render services to commercial hospital associations, or to send statements for services to them, or to accept payment from them, to show reasons for such refusal; and also for the purpose of proving practices of commercial hospital associations against the public interest and against the interest of patients and doctors.

2723 to 2725, inclusive. Same as above; and also to show cooperation with hospital association on the dates mentioned.

10852 *2726* Showing that policies of Oregon State Medical Society were not intended for guidance of any doctors not members of Oregon State Medical Society.

2727 To show that proceedings in *United States v. American Medical Association* were brought to the attention of Oregon doctors.

2728 Showing preference of National Hospital Association that hospitals and doctors send bills to patients and not to National Hospital Association.

2729 Showing efforts of hospital associations to coerce doctors by aid of labor unions.

2730 to 2731, inclusive. In connection with testimony that some doctors have refused to render services to commercial hospital associations, or to send statements for services to them, or to accept payment from them, to show reasons for such refusal; and also for the purpose of proving practices of commercial hospital associations against the public interest and against the interest of patients and doctors.

2732 To show that hospitals did not discriminate against, but favored, commercial hospital associations.

2733 to 2735, inclusive. To show reasons why hospitals considered not extending credit to organizations writing hospital prepaid care, and that their attitude in that regard was directed against Oregon Physicians' Service.

10853 *2736* To show friendly feelings of doctors and hospitals toward a doctor theretofore expelled from Multnomah County Medical Society.

2737 Showing the number of doctors who in 1947-8 sent bills to, and accepted checks from, Industrial Hospital Association.

2738, 2739 In connection with testimony that some doctors have refused to render services to commercial hospital associations, or to send statements for services to them, or to accept payment from them, to show reasons for such refusal; and also for the purpose of proving practices of commercial hospital associations against the public interest and against the interests of patients and doctors.

2740 To show changes in principles of medical ethics of American Medical Association since publication of exhibit containing those principles introduced by plaintiff.

2741 to 2751 inclusive. In connection with testimony that some doctors have refused to render services to commercial hospital associations, or to send statements for services to them, or to accept payment from them, to show reasons for such refusal; and also for the purpose of proving practices of commercial hospital associations against the public interest and against the interest of patients and doctors.

2752 To show state of mind of defendant Fitzgibbon on October 7, 1944.

2753 This offer limited to pages 20 and 21. To 10854 show state of mind of defendant Fitzgibbon in January, 1945.

2754 and 2755 To show that Multnomah County Medical Society in its disciplinary proceedings was acting independently of Oregon State Medical Society and without its aid or encouragement.

2756 to 2760, inclusive. In connection with testimony that some doctors have refused to render services to commercial hospital associations, or to send statements for services to them, or to accept payment from them, to show reasons for such refusal; and also for the purpose of proving practices of commercial hospital associations against the public interest and against the interest of patients and doctors.

2761 For impeachment of C. C. Bechtold and to show that National Hospital Association is illegally doing business in California.

2762 To show income of Klamath County doctors for treating patients who are under protection of Klamath Medical Service Bureau.

2763 Number of doctors licensed to practice in Oregon in years 1948 and 1949, together with number admitted to practice in years 1947, 1948 and 1949.

2764 Growth of Oregon Physicians' Service, both in number of contracts and total subscribers.

(Portions of pretrial stipulation of facts not introduced by plaintiff.) For the facts stated therein.

10855 (Defendants' answers to interrogatories not offered by plaintiff.) For facts stated therein.

Respectfully submitted,

GRIFFITH, PECK, PHILLIPS & COUGHLIN

By (Signed) JOHN J COUGHLIN
John J. Coughlin

CAKE, JAUREGUY & TOOZE

By (Signed) NICHOLAS JAUREGUY
Nicholas Jaureguy
Attorneys for Defendants

Due and legal service of the foregoing Offer of Exhibits in Evidence by receipt of a duly certified copy thereof, as required by law is hereby accepted in Multnomah County, Oregon, on this 8th day of February, 1950.

(Signed) ISIDORE COHEN
Of Attorneys for Plaintiff

10856 IN THE DISTRICT COURT
OF THE UNITED STATES

[FILE ENDORSEMENT OMITTED]

[TITLE OMITTED]

Plaintiff's Objections to Exhibits Offered in Evidence by Defendants

Filed Feb. 13, 1950

In addition to the reasons for objection to defendants' exhibits hereinafter listed, plaintiff also objects to any correspondence prior to January, 1936, on the ground of remoteness. Absence of objection to any of defendants' exhibits is not to be deemed acquiescence in their admissibility for the purpose of defendants' offer, but that they may be admissible for other purposes.

527. Irrelevant and immaterial.

564. Irrelevant and immaterial.

1854. Immaterial and irrelevant.

1872-1876. Irrelevant, immaterial and not a defense to this suit.

1935-1937. Irrelevant, immaterial and not a defense to this suit.

2501-2513. Irrelevant, immaterial and not a defense to this suit.

2514-2566. Irrelevant, immaterial and not a defense to this suit.

2567-2575. Irrelevant, immaterial and not a defense to this suit.

2576-2605. Irrelevant, immaterial and not a defense to this suit.

2606. Irrelevant, immaterial and not a defense to this suit.

2607-2626. Irrelevant, immaterial and not a defense to this suit.

2627-2676. Irrelevant, immaterial and not a defense to this suit.

2677-2681. Irrelevant, immaterial and not a defense to this suit.

2683-2695. Irrelevant, immaterial and not a defense to this suit.

2700. Last page hearsay and self serving.

2703-2705. Irrelevant, immaterial, and not a defense to this suit.

2707. Hearsay, immaterial, irrelevant, not a defense to this suit.

2708. Irrelevant, immaterial and not a defense to this suit.

10857 2710-2725. Irrelevant, immaterial and not a defense to this suit.

2727. Irrelevant and immaterial.

2729-2751. Irrelevant, immaterial, not a defense to this suit.

2752-2753. Irrelevant, immaterial, not a defense to this suit.

2756-2762. Irrelevant, immaterial, not a defense to this suit.

2763. Plaintiff is willing to admit Mr. Coughlin got this information on the phone, but this exhibit is subject to correction by the other exhibits and testimony in the case.

2765-2766. Irrelevant, immaterial and not a defense to this suit.

As to defendants' answers to interrogatories offered by defendants, plaintiff objects on the ground they are self serving declarations and in many instances refuted by the evidence in the case. Some of the answers offered by defendants are merely arguments why answers should not be given.

(Signed) PHILIP MARCUS
Philip Marcus
Special Assistant to the Attorney General

(Signed) ISIDORE COHEN
Isidore Cohen

(Signed) GERARD G. GALASSI
Gerard G. Galassi

(Signed) ROBERT H. WEINSTEIN
Robert H. Weinstein

(Signed) VICTOR E. HARR
Victor E. Harr
Assistant U. S. Attorney

Service of a copy hereof is hereby accepted this 13th day of February, 1950.

(Signed) NICHOLAS JAUREGUY,
By LAMON TOOZE
Of Attorneys for Defendants

Letter, Herbert A. Bergson to Hon. Claude McCulloch, United States District Judge, July 29, 1949

10858 - July 29, 1949

Honorable Claude McCulloch
United States District Judge
Portland, Oregon

Re: United States v. Oregon
State Medical Society, et al.

My dear Judge McCulloch:

During the course of the trial of the above-styled cause, as well as during pre-trial preparation, the question may arise as to how far certain non-defendant individuals and organizations subpoenæd at the request of the Government should be relieved from compliance with such subpoenas in view of the then existing state of the record. We have in mind the following types of situations: illness of a witness; the purely cumulative nature of his expected testimony; the lack of relevancy of subpoenæd documents in view of developments, and the selection of particular documents by the Government staff from the files of a particular person or organization which would make full compliance with the subpoena unnecessary.

It has been our regular practice in such circumstances to notify the subpoenæd individuals or organizations that their appearance either is unnecessary or that their compliance may vary from the terms of the subpoena in the manner set out in a notice sent them for such purpose. We would like to know whether your Honor would have any objection to such a procedure. If you would prefer to discuss the matter with counsel, we would appreciate such an opportunity. The matter is current since we have already received some requests from addressees of subpoenas in which they ask that they be relieved from compliance with the subpoenas, either in whole or in part. Our past experience indicates that the proposed procedure suggested herein expedites the trial and saves considerable time of all concerned.

We are sending copies of this letter to Messrs. Jaureguy and Coughlin.

Sincerely yours,

HERBERT A. BERGSON
Assistant Attorney General

VOLUME X

TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1951

No. 19

THE UNITED STATES OF AMERICA, APPELLANT,

VS.

OREGON STATE MEDICAL SOCIETY, OREGON PHYSICIANS SERVICE, CLACKAMAS COUNTY MEDICAL SOCIETY, ET AL.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON.

FILED MARCH 16, 1951

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